

Press Release

TRPA's Decision to Approve Giant Cell Tower Could Be Tahoe's Death Knell

Press Release: October 15, 2021

Press Conference: at 10:00 am, on Tuesday, March 19@10:00 a.m. ZOOM #
<https://us02web.zoom.us/join/9tZcYkc6uqT8sE9LW3fgkdMRe68S2kGGBRQ-w>

Please Register in advance for this meeting. After registering, you will receive a confirmation email containing information about joining the meeting.

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On October 14, 2021, TRPA Hearings Officer Marsha Burch approved Verizon Wireless' controversial application for a 112-foot macro cell tower at 1360 Ski Run Boulevard, South Lake Tahoe. The proposed cell tower, located at the base of Heavenly Ski Resort, in the middle of a residential neighborhood, has been vigorously opposed by hundreds of residents over the past two years at public hearings before the City of South Lake Tahoe Planning Commission and City Council, before moving on to the Tahoe Regional Planning Agency (TRPA). TRPA's approval at the end of yesterday's public hearing, may have been Tahoe's death knell without our community even knowing it. Catastrophes often begin in tea cups.

- Opponents of the project submitted into the TRPA record one day before the hearing thousands of pages of public comment, legal analysis, and over 4,000 pages of peer-reviewed scientific studies on the environmental, health, and fire risks posed by macro cell towers, such as the one proposed by Verizon in Tahoe's sensitive environment.

The hazards to wildlife (including the bald eagle, deer, and at least one endangered species), and as well many RFR sensitive plants presented by

helter-skelter cell tower densification, endorsed by the TRPA, are likely to be irreversible and irrevocable.

- The TRPA Hearings Officer, Marsha Burch, was just assigned to this file on October 11, 2021, after the opponents successfully moved to disqualify TRPA Hearings Officer Andrew Strain, due to his severe conflicts of interest as a land developer whose boss submitted public comment supporting cell tower expansion in South Lake Tahoe.

>Ms. Burch could not possibly have read and analyzed the voluminous record overnight prior to yesterday's public hearing.

>Ms. Burch ignored the fact that the 112 ft tower will loom more than 40 feet above the surrounding tree line, immediately adjacent to a TRPA designated Highly Sensitive Stream and Scenic Zones.

>The Verizon macro tower is located on a slope where its RFR emissions will irradiate children directly below who are tobogganing in a winter "playground" at Hansen's Resort.

>The Verizon tower will continuously bathe the surrounding community with up to 47,000 watts (47 kilowatts) of RF radiation. There is strong scientific and clinical evidence that anyone who is continuously exposed to 47 kilowatts of radiative power will likely become seriously ill. TRPA is not requiring Verizon to take accurate measurements of the dose effects using easily available advanced technology developed by members of the Congressionally authorized National Spectrum Management Association.

From a legal perspective the Tahoe case is a landmark.

- TRPA concedes that the Telecommunications Act of 1996 does not preempt the Interstate Compact as to environmental concerns, meaning TRPA recognizes that it has the power to regulate RF emissions in the Lake Tahoe Region. But TRPA contends that the agency and the telecom providers get to decide how to "harmonize" their interests with the Public Trust established by Congress to protect Tahoe's unique and fragile environment. Opponents disagree and point to Article VII of the Compact and the TRPA's own Regional Plan, which explicitly require that TRPA prepare a Comprehensive Environmental Statement (EIS) and analysis of the

Wireless Tahoe Plan developed by a coalition of telecom companies and their lobbying arm, the Tahoe Prosperity Center.

- TRPA and Verizon assert there is no problem with segmenting and piecemealing each tower permit decision as illustrated in the Verizon macro-tower application. Opponents contend that piecemealing supported by arbitrary conclusions violates the federal Administrative Procedure Act and the important decision on August 13, 2021 of the DC Circuit Court of Appeals in *Environmental Health Trust /Children's Health Defense v. FCC*. In this case, the federal Circuit Court ordered the FCC to evaluate thousands of recent scientific articles and commentary about serious detrimental health and environmental effects of wireless radiation from cell towers and wireless equipment, and to engage in a reasoned decision-making process to determine whether the FCC's 1996 wireless radiation emissions standards need to be updated.
- Verizon and TRPA contend that the Americans with Disabilities Act and the Fair Housing Amendments Act do not apply to residents of Tahoe who have recognized disabilities, including cancer, neurological and cardiac illnesses, and a newly recognized condition estimated to affect at least 10% of the U.S. population known as Electro-Hyper-Sensitivity (EHS). These residents seek reasonable accommodation from Verizon and TRPA; they object to wireless facilities being located in close proximity to their residences. They seek to live peaceably without suffering severe health impairments.

Most troubling for Tahoe is the process by which Hearings Officer Marsh Burch reached her decision. **She simply read from a prearranged text, obviously dictated by her patron, TRPA.** Since Opponents submitted their Statement in Opposition the day before in accordance with the TRPA's Hearings rules, there was no possible way in which Hearing Officer Marsh Burch could have had time to read and to assess the record. Nor can her error be corrected by a *post hoc* rationale. The TRPA's Hearings Officer displayed the very worst of "conclusionary" decision making that was castigated by the DC Circuit Court of Appeals. In Tahoe, the conclusions are forgone. The game is rigged to favor the telecoms.

If the rule of law no longer applies in Tahoe, what is left is political influence backed by Tammany Hall financial muscle. What Mark

Twain called “the fairest picture the whole world affords” is about to disappear in a whisper.

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Approved: Tahoe Stewards, Tahoe for Safer Tech, Environmental Health Trust, the Legal Team, and expressing the concerns of over 4,000 signatories of past petitions to the TRPA whose interests are being entirely ignored.